

Report to Sydney West Joint Regional Planning Panel

JRPP No.	2015SYW152
DA No:	JRPP-15-769
Proposed Development:	Staged mixed use development including hostel accommodation, a residential aged care facility, infill self-care housing, associated community facilities, commercial and retail tenancies, cafe and an IGA supermarket
Development Type:	Capital Investment Value > \$20 million
Lodgement Date:	10 April 2015
Land/Address:	Lot 1 DP 1202126, Lot 18 DP 2570 and unmade road reserve known as Depot Street (Lot 19 DP2570 and Lot 1 DP624679), 1-3 Rooty Hill Road South and 11 & 17-23 Mavis Street, Rooty Hill
Land Zoning:	Under Blacktown Local Environmental Plan 1988: Part 2(a) Residential, 3(a) General Business, 5(a) Special Uses Telecom and 5(a) Special Uses Railway
Capital Investment Value of Approved Development:	\$58,160,000
Applicant:	Anglican Retirement Villages
Landowner:	Anglican Retirement Villages and Blacktown City Council
Report Author:	Rebecca Gordon, Senior Town Planner
Instructing Officers:	Judith Portelli, Manager Development Assessment Glennys James, Director Design and Development
Date Submitted to JRPP:	20 September 2016



Figure 1. Photomontage

ASSESSMENT REPORT

CONTENTS

1.	Summary	3
2.	Location	6
3.	Site description	7
4.	Background.....	10
5.	The proposal.....	11
6.	Planning controls.....	15
7.	External referrals.....	25
8.	Internal referrals	26
9.	Key issues.....	27
10.	Public comment	30
11.	Section 79C consideration	32
12.	Recommendation	33

FIGURES

Figure 1	Photomontage.....	1
Figure 2	Location map	6
Figure 3	Site and surrounds photos	7 & 8
Figure 4	Aerial photo.....	9
Figure 5	Zoning extracts	10
Figure 6	Location of proposed works	11
Figure 7	Location of submitter's property	31

ATTACHMENTS

Attachment 1	–	Draft conditions of consent
Attachment 2	–	Certificate of Site Compatibility
Attachment 3	–	Photomontage of development
Attachment 4	–	Development application plans
Attachment 5	–	Section 79C consideration
Attachment 6	–	Compliance with State Environmental Planning Policy No 65 and the Residential Flat Design Code
Attachment 7	–	Compliance with State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004
Attachment 8	–	Compliance with State Environmental Planning Policy No 64 – Advertising and Signage

1. Summary

- 1.1 Blacktown City received a Development Application (DA) from Anglican Retirement Villages Diocese of Sydney (ARV) for a mixed use development at 1-3 Rooty Hill Road South and 11 & 17-23 Mavis Street, Rooty Hill. ARV is listed as a tier 3 provider on the National Provider Register of all nationally registered Community Housing Providers and therefore is a social housing provider for the purposes of this DA.
- 1.2 The proposal comprises 7 buildings, including seniors housing components (a hostel, a residential aged care facility, infill self-care housing and associated community facilities), commercial and retail tenancies, a cafe and an IGA supermarket. The buildings range in height from single storey to 4 storeys. The construction of the development is proposed to take place over 2 stages.
- 1.3 Associated works include internal roads, private open space, removal of 7 trees, pedestrian linkages, new landscaping and flood storage basins. The development provides a total of 209 on-site car parking spaces. In addition, the closure of the 2 vehicle crossings from Rooty Hill Road South will result in 5 additional on-street parking spaces. The development provides a surplus of 98 car parking spaces and 2 mini bus spaces (i.e. 100 spaces).
- 1.4 The development site includes a small narrow lot and an adjacent unformed road (i.e. Depot Street) which are currently owned by Council. Depot Street is currently in the process of being formally closed by Council. As a property owner, Council has given its consent to lodge the application.
- 1.5 The proposed development constitutes 'regional development' requiring referral to the Joint Regional Planning Panel (JRPP) as it has a capital investment value of \$58,160,000. While Council is responsible for the assessment of the DA, the Sydney West JRPP is the consent authority.
- 1.6 The site is currently zoned part B2 Local Centre and part R4 High Density Residential under Blacktown Local Environmental Plan (BLEP) 2015, which came into effect on 7 July 2015. The DA, however, was received by Council on 10 April 2015. The DA is therefore to be considered under BLEP 1988 and Blacktown Development Control Plan (BDCP) 2006, both of which applied to the site at the time of lodgement. Under BLEP 1988 the site was zoned 2(a) Residential, 3(a) General Business, 5(a) Special Uses Railway and 5(a) Special Uses Telecom.
- 1.7 The proposed commercial premises are located in the portion of the site zoned 3(a) General Business and are permissible with consent under BLEP 1988. The proposed seniors housing components of the development, however, are located across the site in all of the zones. Under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP Seniors Housing), seniors housing is permissible with consent within the 2(a) and 3(a) zones. Within the 5(a) zones, however, seniors housing is only permissible subject to a Site Compatibility Certificate from the Secretary of the Department of Planning and Environment (DoPE). A Site Compatibility Certificate for the proposed development was issued in September 2015 and the DA is therefore permissible under SEPP Seniors Housing. The Site Compatibility Certificate does not cover the land known as Depot Street, as this land is zoned 3(a) General Business under BLEP 1988 and does not set any height limit.
- 1.8 A detailed assessment has been undertaken against the provisions of SEPP Seniors Housing, SEPP 65 - Design Quality of Residential Flat Development (SEPP 65), BLEP 1988 and BDCP 2006.
- 1.9 The DA was lodged prior to Amendment 3 to SEPP 65 that was published on 19 June 2015. The proposal has therefore been assessed under SEPP 65 as it existed before the amendment, including the Residential Flat Design Code (RFDC). The proposal does

not achieve all of the 10 'design quality principles' listed under Part 2 of the SEPP and does not meet some of the numerical criteria of the RFDC. These controls only apply to the proposal's self-care unit buildings. They do not apply to the community facilities or commercial premises.

- 1.10 The self-care unit buildings provide a building separation distance of 9.35 m between buildings 1 and 2, and a building separation of 8.9 m between buildings 3 and 4, instead of the required 12 m. Several units also do not satisfy the minimum unit size and dimensions, or the solar access and natural ventilation requirements. The applicant states that 70% of the units receive 3 hours direct sunlight to the living rooms, but this has not been justified. Council officer's assessment indicates that only 50.3% of the units comply. The applicant has submitted a design verification statement that requests that these variations be accepted. The basis for the request is that this is a seniors housing project and is not a standard residential flat development.
- 1.11 The 8.9 m - 9.35 m building separation is considered acceptable, given that the separation is between bedroom windows and balconies that can be provided with suitable privacy screens. The architectural plans indicate that timber batten screens will be installed to some of the bedroom windows. To ensure adequate privacy is achieved to all of the units, however, a condition will be imposed on the consent requiring that the proposed screening be provided to all of the impacted bedroom windows and balconies. Separate details will need to be submitted for the separate consent of Council as part of a deferred commencement condition.
- 1.12 The acoustic report also recommends that the bedroom windows in the western facades be provided with a glazing thickness of 6.38 mm (i.e. those windows orientated towards Rooty Hill Road South) and that the bedroom windows in the eastern façades be provided with a glazing thickness of 6 mm. Acoustic seals are to be provided around these windows. To eliminate any potential noise impacts arising from the reduced building separation, it is recommended that all of the impacted bedroom windows be provided with a minimum glazing thickness of 6.38 mm and that this matter be addressed as a condition of the consent.
- 1.13 To address the other non-compliances, it is recommended that a deferred commencement condition be imposed requiring that the floor-to-ceiling height of all habitable rooms be increased from 2.4 m to a minimum of 2.7 m, that several of the living/dining rooms be reorientated so that they will have a window with a northern or north-western aspect, that some of the windows in the north-eastern walls be increased to an area of at least 2 sqm, and that the 'resident store' areas be amended to allow some of the corridors to be widened to a minimum of 1.5 m.
- 1.14 While there is no guarantee that all the numerical criteria of the RFDC will be achieved by these modifications, the increased ceiling heights and better solar access and ventilation will improve the internal amenity of the units. On its merits, particularly as the proposal is for much needed affordable seniors residential accommodation, the variations are considered acceptable.
- 1.15 The proposal complies with the numerical development standards of BLEP 1988 under which there is no height or floor space ratio (FSR) control for the site. Under BDCP 2006, a height control of 2 storeys existed for the portion of the site zoned 3(a). The proposed mixed use building, located on the 3(a) land, is 4 storeys and has an overall height of 16.2 m (including stairwell). The current height control over this portion of the site under BLEP 2015 is now 14 m and was exhibited at this height in the draft LEP at the time the DA was lodged. A proposed overall height of 16.2 m is therefore considered acceptable. In addition, the strategic planning objectives for the local business centre (expressed in the Rooty Hill Town Centre Masterplan which was adopted in 2012) anticipated development of 14 metres (i.e. 4 storeys). The proposed 4 storey building is not considered to have any adverse impacts on the streetscape and neighbouring properties.

- 1.16 Under SEPP Seniors Housing clause 40(4)(a) and (b), development in the 2(a) zoned portion of the site must not exceed 8 m in height. Any building located adjacent to the boundary of the 2(a) land must also not exceed 2 storeys. The building in the south-east corner of the site (retirement living building 4) has a height of 13.1 m to the parapet and therefore does not comply with the development standard.
- 1.17 In response, the applicant has submitted a SEPP No. 1 objection to vary these development standards. Given that this part of the site previously zoned 2(a) is now zoned R4 High Density Residential and has a 14 m height limit (i.e. 4 storeys) under BLEP 2015, the proposed building (retirement living building 4) with a height of 11.6 m to the ceiling and 13.1 m to the parapet is considered acceptable.
- 1.18 As part of the consent, however, it is being recommended that a deferred commencement condition be imposed requiring that the floor-to-ceiling height of all habitable room buildings be increased from 2.4 m to a minimum of 2.7 m. As the building contains 3 residential levels, the overall height will increase by 0.9 m to 14 m and is still considered acceptable.
- 1.19 In addition, the other 3 Residential Living Self-care buildings will also require 2.7 m floor to ceiling heights, and so the overall height of these buildings will also need to increase by 0.9 m. As a result Building 1 will have an overall height of 15.7 m to the parapet, Building 2 will measure 15.9 m to the parapet and Building 3 will measure 14 m to the parapet. These increases will ensure better amenities for the residents and so the variation in overall height of between 1.7 m to 1.9 m to achieve this is reasonable as no extra units will be generated and this area never had a height limit due to its Special Uses zoning.
- 1.20 The DA was notified to property owners and occupiers within the locality between 14 and 27 October 2015. The DA was also advertised in the local newspapers and a sign was erected on the site. One submission was received on behalf of the adjoining Lone Pine Tavern. The submission does not object to the proposal, but instead raises concerns in relation to potential future land use conflicts between the proposed residential development and the existing late night operation of the tavern. In particular, the tavern operators are concerned that noise from the tavern activities may generate complaints from the new residents. This issue is considered to be adequately addressed through the design of the development. The concerns raised are not considered sufficient to warrant refusal of the DA, subject to conditions to ameliorate any noise concerns, including a requirement that any bedroom window located within 20 m of the northern or eastern boundary of the tavern be provided with a minimum glazing thickness of 10.38 mm (i.e. double glazing), and that the existing 1.8 m high boundary fencing along the northern and eastern boundaries of the tavern be increased to 2.1 m at full cost to the developer.
- 1.21 Due to its location adjacent to the main western railway line, the DA was referred to Sydney Trains. Concurrence to the proposal has been provided by Sydney Trains, subject to a deferred commencement condition and various operational conditions. The deferred commencement condition has been imposed to address the proposed excavation works associated with the basement carpark. The other conditions are considered standard conditions and will ensure protection of the rail corridor and the amenity of the future occupants of the site.
- 1.22 The development is considered satisfactory with regard to relevant matters such as location, siting and design, bulk and scale, privacy, access, traffic impacts, parking and stormwater drainage. The proposed development has been assessed against the relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979, including the suitability of the site and the public interest, and is considered satisfactory subject to conditions.
- 1.23 It is recommended that the proposed development be approved subject to the deferred commencement conditions at **Attachment 1**.

2. Location

- 2.1 The site is located in the Rooty Hill shopping centre on the southern side of the Rooty Hill railway station, and has frontage to both Rooty Hill Road South and Mavis Street. The location of the site is shown in Figure 2.
- 2.2 The land immediately to the east is currently vacant. This land is zoned R4 High Density Residential and has a building height limit of 14 m. The land to the west contains shops, on the opposite side of Rooty Hill Road South, is zoned B2 Local Centre and has a building height limit of 14 m. The land to the south, on the opposite side of Mavis Street, contains 8 dwellings and is zoned R2 Low Density Residential with a 7.5 m building height limit. This area is within the medium risk flood precinct of Angus Creek as shown on the Council's flood risk map. Adjoining the site, on the corner of Mavis Street and Rooty Hill Road South, is the Lone Pine Tavern. This well established business is on land zoned B2 Local Centre and has a building height limit of 14 m. Council officers have been advised that the tavern is currently for sale.
- 2.3 Opposite the Lone Pine Tavern, on the corner of Barker Street and Rooty Hill Road South, is the Rooty Hill School of Arts. It is a local heritage item under both BLEP 1988 and BLEP 2015, and is zoned RE1 Public Recreation under BLEP 2015. The Rooty Hill railway station, located adjacent to the site, is also a local heritage item under BLEP 2015.
- 2.4 The existing locality is characterised as a traditional main street commercial centre surrounded by low density housing and open space areas. Redevelopment of the area is promoted by the recent uplift in zoning under BLEP 2015, of both the local centre and the residential areas, to allow 4 storey buildings of 14 m.
- 2.5 Further to the east is the M7 motorway and regional open space areas. Mavis Street, however, only provides access to the pedestrian/bike path ramps. There is no vehicular access to the motorway from Mavis Street. Rooty Hill Road South is one-way north bound from Barker Street, with access then provided along Beames Avenue. Rooty Hill Road South provides access to the northern side of the railway line via Francis Road/Eastern Road and south to the Great Western Highway, M7 and M4.

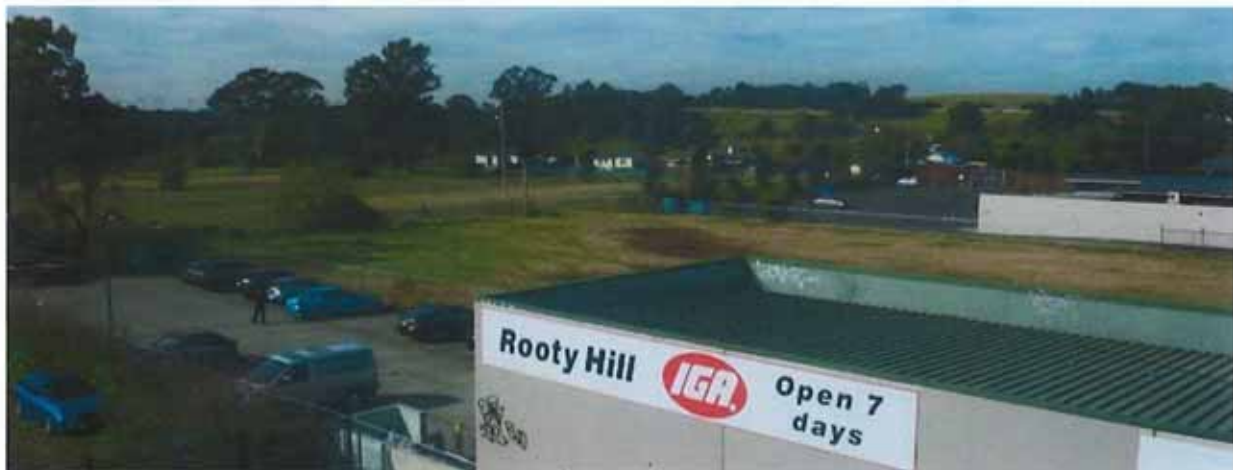


Figure 2. Location map

3. Site description

- 3.1 The site includes Lot 1, DP 1202126, Lot 18 DP 2570 and an unformed road reserve (i.e. Lot 19 DP2579 and Lot 1, DP624679 known as Depot Street). Together these lots are known as 1-3 Rooty Hill Road South and 11 & 17-23 Mavis Street, Rooty Hill. The site is an irregular shaped allotment with a total area of approximately 2.6 hectares.
- 3.2 The site has a frontage of 124 m to Mavis Street and a frontage of 98.9 m to Rooty Hill Road South. Primary access to the development will be from Rooty Hill Road South for the commercial development and from Mavis Street for the seniors housing development. The northern boundary adjoins the main western railway corridor and measures approximately 257 m.
- 3.3 In the north-west corner of the site is an existing single storey building, containing an IGA supermarket and medical centre. A car parking area is located at the rear of the building and is accessed from Rooty Hill Road South. The remainder the site is vacant, with a few trees located along the northern boundary and in the south-eastern corner near Mavis Street.
- 3.4 The site is relatively level in topography, with a slight fall of 1.9% from the north-western to the south-eastern corners of the site. The site does not comprise any environmentally sensitive land.

Figure 3. Site and surrounds photos



The site viewed from the pedestrian footbridge to Rooty Hill train station



Rooty Hill town centre shopping strip

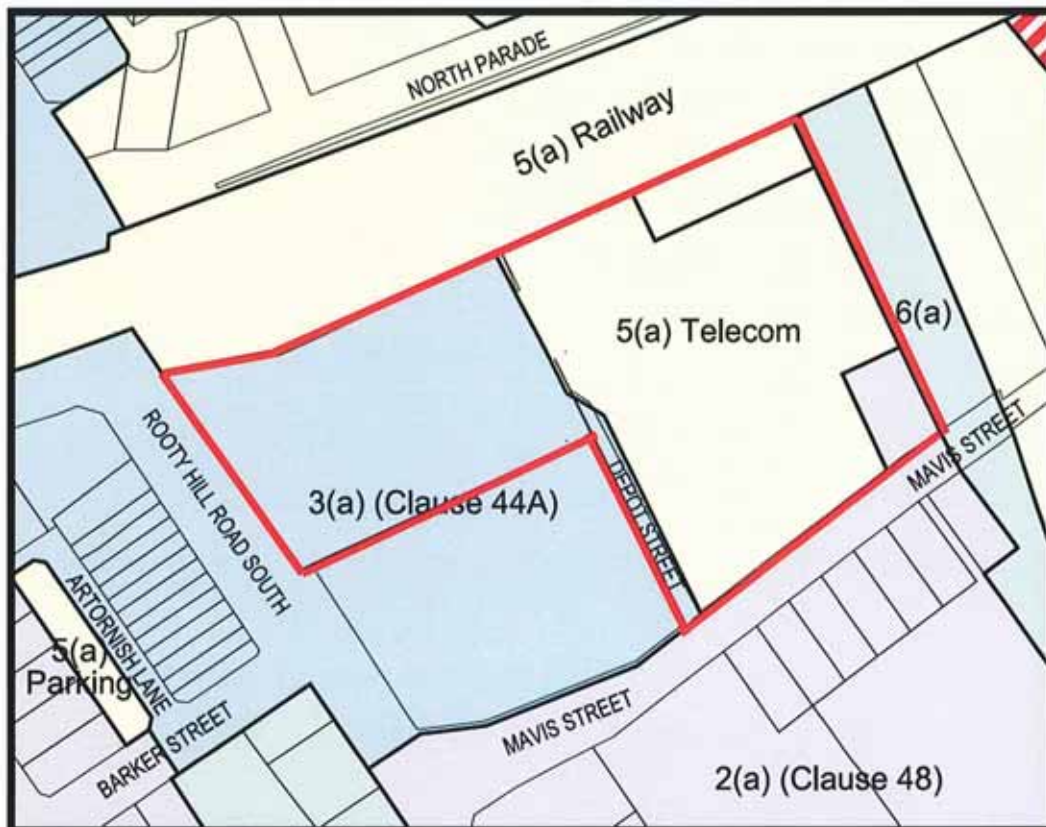


The southern boundary to the site viewed from Mavis Street

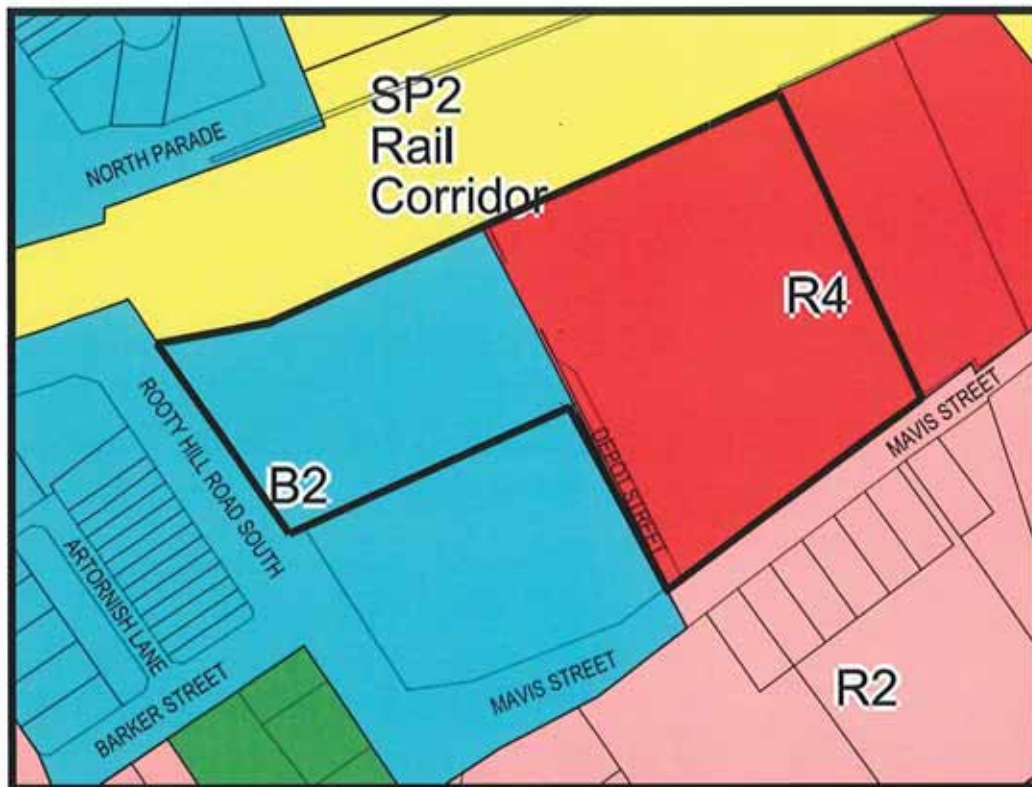


Figure 4. Aerial photo

Figure 5. Zoning extracts (BLEP 1988 and BLEP 2015)



BLEP 1988 (extract)



BLEP 2015 (extract)

4. Background

- 4.1 The site is currently zoned part B2 Local Centre and part R4 High Density Residential under Blacktown Local Environmental Plan (BLEP) 2015, which came into effect on 7 July 2015. The DA, however, was received by Council on 10 April 2015. The DA is therefore to be considered under BLEP 1988 and Blacktown Development Control Plan (BDCP) 2006, both of which applied to the site at the time of lodgement. Under BLEP 1988, the site was zoned 2(a) Residential, 3(a) General Business, 5(a) Special Uses Railway and 5(a) Special Uses Telecom.
- 4.2 Prior to the lodgement of the DA a number of discussions were held with Council officers, including the inclusion in the development site of Council owned land. This land includes a small narrow lot (Lot 18, DP 2570) and the adjacent unformed Depot Street (Lot 19, DP2570 and Lot 1, DP624679). Council's Property Section is currently in the process of formally closing Depot Street, after which ARV will purchase the land. Council's Property Section has given its consent to the lodgement of the DA.
- 4.3 The proposed commercial premises are located in the portion of the site zoned 3(a) General Business and are permissible with consent under BLEP 1988. The proposed seniors housing components of the development, however, are located across the site in all of the zones. Under SEPP Seniors Housing, seniors housing is permissible with consent within the 2(a) and 3(a) zones. Within the 5(a) zones, seniors housing is only permissible subject to a Site Compatibility Certificate from the Secretary of the DoPE. A Site Compatibility Certificate, under clause 25 (4)(a) of SEPP Seniors Housing, was issued for the proposed development on 14 September 2015 and is at **Attachment 2**.
- 4.4 The applicant (ARV) is a not-for-profit organisation providing various levels of care for people in need and is defined as a *social housing provider* under the definition in SEPP Seniors Housing.

5. The proposal

5.1 The DA seeks approval for the construction of 7 buildings including:

- A 4 storey mixed-use building, including the relocated IGA, shops/offices and hostel accommodation
- A 3 storey residential aged care facility
- 4 x 4 storey infill self-care aged housing buildings
- A single storey community building.

These 4 components are described further below and are illustrated at **Figure 6**.

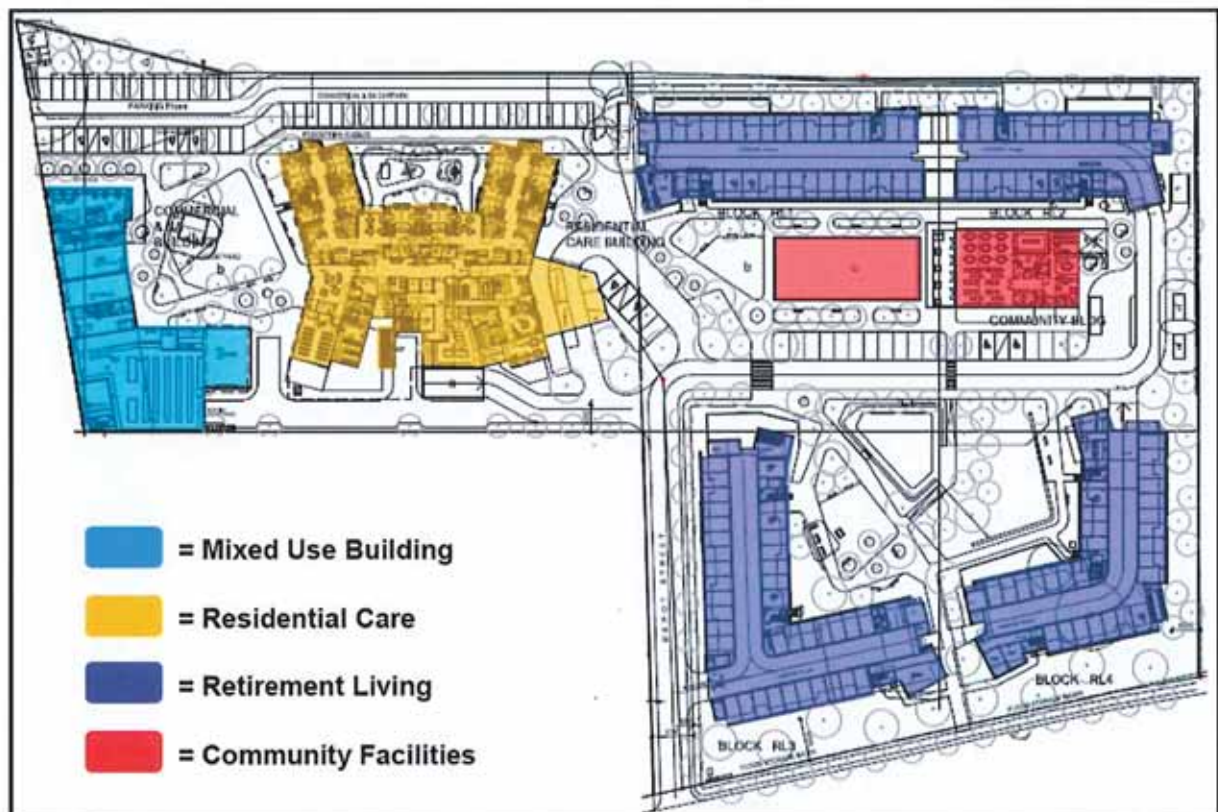


Figure 6. Location of proposed works (extract from SEE report)

- 5.2 A total of 209 vehicle parking spaces, including 17 disabled spaces, are provided across the site to serve the different components of the proposal. In addition, the closure of the 2 vehicle crossings from Rooty Hill Road South will result in 5 additional on-street parking spaces. The proposed development will therefore result in 214 new parking spaces being provided. Additional space is also provided for an ambulance and 2 minibuses.
- 5.3 Associated works include internal roads, private open space, pedestrian links, landscaping and flood storage basins. Demolition of the existing building on site is not included as part of this application and will require separate approval prior to demolition taking place. Fit-out of the commercial and retail tenancies will also require the separate consent of Council. These matters will be included as conditions of the consent. Photomontages of the proposed development are at **Attachment 3** and the development plans at **Attachment 4**.

5.4 The 4 storey mixed-use building fronting Rooty Hill Road South includes:

- Ground floor: The relocated IGA supermarket and 4 smaller retail shops with a total gross floor area (GFA) of 817 sqm. The proposed use of the retail tenancies includes a café, hairdresser and pharmacy. Separate consent is required for the fit-out of the retail tenancies.
- First floor: 5 commercial tenancies with a GFA of 426 sqm. The proposed use of the tenancies includes a medical consulting room, dentist, physio and community care. Separate consent is required for the fit-out of these tenancies.
- Second and third floors: Hostel accommodation, including 12 hostel units on each level (24 rooms in total), a shared laundry and a common room (including kitchen) on each level. Each hostel unit contains a bathroom, bedroom and living room with kitchenette.
- Access from Rooty Hill Road South to an on-site ground level parking area for 51 vehicles, including 4 disabled spaces. These car parking spaces, together with the additional 5 on-street parking spaces, will cater for the retail, commercial and hostel uses.

A loading area is located at the rear of the supermarket and is accessed off the internal road via Mavis Street. Pedestrian access to the supermarket is directly from Rooty Hill Road South or from the rear via the pedestrian pathways that lead to the car parking areas and the seniors housing buildings.

The supermarket's proposed hours of operation are Monday to Friday 7.00 am to 8.00 pm, Saturday 8.00 am to 7.00 pm and Sunday 8.00 am to 6.00 pm. It is recommended that the other tenancies also be limited to these hours. Any proposal to operate beyond these hours will need to be the subject of a separate application.

The building measures 16.2 m to the top of the stairwell and 14.8 m to the top of the street frontage parapet. A landscaped courtyard is located at the rear of the building, adjacent to the residential aged care facility building.

The mixed-use building is located in the commercial precinct and is similar in style to shop top housing. It will be built to the front boundary at ground level and has an awning over the footpath. The 3 storeys above are provided with a setback of 1.5 m. Separate entry foyers are provided for the commercial and residential floors. The building provides a zero setback to the southern boundary (adjoining the tavern) and is 8 m from the proposed carpark and 37 m from the entrance to the railway footbridge to the north.

The hostel accommodation on the second and third floors is provided with a solid wall adjacent to the adjoining Lone Pine Tavern. These units are provided with either a west facing window (facing Rooty Hill Road South) or an east facing window. The acoustic report recommends that the bedroom windows orientated towards Rooty Hill Road South be provided with a glazing thickness of 6.38 mm and that the bedroom windows along the eastern façade be provided with a glazing thickness of 6 mm. Acoustic seals are to be provided around these windows.

However, to eliminate any potential noise complaints arising from the operations of the adjoining Lone Pine Tavern, it is recommended that any bedroom window located within 20 m of the northern or eastern boundary of the tavern be provided with a minimum glazing thickness of 10.38 mm (i.e. double glazing) and that this matter be addressed as a condition of the consent. It is also recommended that a condition be imposed requiring that the existing 1.8 m high boundary fencing around the Lone Pine Tavern be increased to 2.1 m to protect the privacy of the future residents, and that the new fencing be provided at full cost to the developer. Acoustic fencing is not considered necessary, as the ground floor uses on site are non-residential in nature. Any acoustic fence would

therefore need to be of a significant height to benefit the residents at the first, second and third floor levels, which is not considered appropriate in a residential setting.

5.5 The 3 storey residential aged care facility, located to the east of the mixed use building, contains 90 low and high care beds and includes:

- Basement: 24 car parking spaces, including 1 disabled space, plant and store rooms. Vehicle access to the basement is via the internal road from Mavis Street.
- Ground floor: 18 low care beds, staff administration facilities, common areas, activity areas, chapel, consultation rooms and kitchen.
- First floor: 36 high care beds, staff administration facilities, lounge rooms and medical facilities.
- Second floor: 36 high care beds, staff administration facilities, lounge rooms and medical facilities.

The building has a maximum height of 12.45 m and is setback 15 m from the railway corridor (northern boundary) and 3 m from the proposed mixed use building's public carpark. A 1.8 m high fence separates the proposed residential care courtyard from the public carpark and other publicly accessible areas. Immediately outside the building is a small parking area, including space for a minibus, an ambulance and 3 cars (including 2 disabled spaces).

The building is setback 9 m from the mixed use building and supermarket, and 14 m from the Lone Pine Tavern. The closest building to the east is located 16 m away. To eliminate any potential noise complaints arising from the operations of the adjoining Lone Pine Tavern, it is recommended that any bedroom window located within 20 m of the northern or eastern boundary of the tavern be provided with a minimum glazing thickness of 10.38 mm (i.e. double glazing) and that this matter be addressed as a condition of the consent.

5.6 There are 4 x 4 storey buildings containing a total of 165 infill self-care aged housing units (otherwise known as 'retirement living'). A total of 116 carparking spaces are provided at ground level as undercroft parking areas, with 3 residential levels above. The 4 buildings are located on the eastern portion of the site between the railway line and Mavis Street and are described as follows:

- Building 1 is located adjacent to the railway line and contains 39 units (13 units on each floor) and 2 lifts. Parking for 33 cars, including 2 disabled spaces, is located in the undercroft beneath the building. The parking area is accessed from the internal road from Mavis Street. The building measures 14.8 m to the parapet and 15.4 m to the stairwell. The building is located 5.3 m from the northern railway boundary and 7 - 9 m from the adjacent residential aged care facility building.
- Building 2 is located adjacent to the railway line, to the east of Building 1. The building contains 27 units (9 units on each floor) and 2 lifts. Parking for 18 cars, including 1 disabled space, is located in the undercroft beneath the building. The parking area is accessed from the internal road. The building measures 15 m to the parapet and 16.2 m to the stairwell. The building is located 5.3 m from the northern railway boundary, 7 - 9 metres from Building 1 and 6 m from the eastern property boundary.
- Building 3 is located adjacent to Depot Street and contains 57 units (19 units on each floor) and 2 lifts. Parking for 37 cars, including 3 disabled spaces, is located in the undercroft beneath the building. The parking area is accessed from the internal road on the western side of the building. The building measures 13.1 m to the parapet and 15 m to the stairwell. The building is located 4 m east of the proposed internal road, 9 m from Building 4 and 8.5 m from Mavis Street.

- Building 4 fronts Mavis Street and is located to the east of Building 3. The building contains 42 units (14 units on each floor) and 2 lifts. Parking for 28 vehicles, including 2 disabled spaces, is located in the undercroft beneath the building. The parking area is accessed from the internal road. The building measures 13.1 m to the parapet and 15 m to the stairwell. The building is located 6.8 m from the eastern property boundary, 9 m from Building 3 and 8.5 m from Mavis Street.
- 5.7 The provisions of State Environmental Planning Policy No 65 (SEPP 65) – *Design Quality of Residential Flat Development* apply to these 4 buildings. To improve solar access and the overall amenity of the units for future occupants, it is recommended that a deferred commencement condition be imposed requiring that the floor-to-ceiling height of all habitable rooms within these 4 buildings be increased from 2.4 m to a minimum of 2.7 m. As the buildings contain 3 residential levels, the overall height of each building will increase by 0.9 m. Building 1 will therefore have an overall height of 15.7 m to the parapet, Building 2 will measure 15.9 m to the parapet and Buildings 3 and 4 will measure 14 m to the parapet.
- 5.8 The 4 'retirement living' (RL) buildings are located around an internal communal open space area which includes:
- A single storey community building (approximately 438 sqm). The building contains community rooms, lounge space, kitchen, meeting room, craft room, administration areas, computer room and toilet facilities.
 - An adjoining bowling green.
 - 15 car parking spaces (including 2 disabled spaces) and a minibus space at ground level.
- 5.9 General site works associated with the development include:
- Construction of a new private internal roadway (in the location of the existing unformed Depot Street) from Mavis Street. The internal roadway will provide access to each component of the development. This, however, is subject to the closure of Depot Street being finalised by Council and the applicant purchasing the land. As this land will then be used as a private driveway to the development and not for buildings, the purchase does not need to be finalised prior to any construction commencing. This will be addressed as a pre-occupation condition of the consent.
 - Provision of landscaped open space areas and connecting pedestrian footpaths throughout the site.
 - Stormwater and civil engineering works, including the provision of flood storage basins at the Mavis Street frontage. The landscaped flood storage basins are required to minimise the impact of flood waters onto the site, which rise from the creek on the opposite side of Mavis Street.
 - Fencing to internal and external boundaries.
- 5.10 The construction of the proposed development will take place over 2 stages. Stage 1 will include the closure of Depot Street and construction of the new internal private roads, the residential aged care facility, retirement living blocks 1 and 2, and the community building. The other building works and new car parking arrangements in Rooty Hill Road South will be undertaken as part of stage 2.
- 5.11 The landscape concept plans are included at **Attachment 4**. The existing 7 trees on site are proposed to be removed. However, over 200 new native and deciduous trees, as well as shrubs and ground covers, are proposed to be planted across the site. The

planting will occur along boundaries, internal roads and pedestrian paths, and around the outdoor open space areas, private courtyards and carparks.

Council's City Architect has recommended that the car spaces adjacent to the 3 storey residential aged care facility be relocated to the northern boundary of the site. This will allow the proposed tree planting between the car spaces to occur on the property boundary and provide further screening of the rail corridor. This is considered a minor amendment and will be addressed as a condition of the consent.

The pedestrian network throughout the site includes concrete paving, deco-granite, feature paving and stepping stone materials. The pedestrian entry at Mavis Street includes a timber bridge over the grassed flood storage basin.

Several different outdoor passive communal open space grassed areas, courtyards and a bowling green are provided and designed specifically for the needs of residents of the various forms of seniors housing. The infill self-care aged housing units are all provided with private balconies.

5.12 The proposed development includes the erection of building identification signs for the proposed ARV facilities including:

- 1 temporary billboard sign identifying the location of each building during construction. This temporary 'directional' sign will be located adjacent to the mixed use building carpark. The sign measures 7 m x 4.9 m and will not be illuminated.
- 2 fixed permanent building identification signs, being 1 at the Rooty Hill Road South carpark and pedestrian entry point and 1 at the Mavis Street internal road entry to the site. The sign at the Mavis Street entrance is 'L' shaped and will face both Mavis Street and the new internal road. It measures 2.8 m x 1.5 m. The proposed sign in Rooty Hill Road South is also 'L' shaped and will face both Rooty Hill Road South and the carpark entry driveway. It measures 4 m x 1.6 m. Each sign will be aluminium powder coated in the ARV corporate colours (mainly light grey and purple) and will be illuminated. Conditions will be imposed to ensure that the level of illumination does not disturb residents at night and does not spill light onto any nearby property. Further details of the proposed signs are provided on the photomontages at **Attachment 3**.

5.13 The buildings will be articulated and use various materials, including different coloured rendered walls, white rendered blades, timber battens on windows, white and dark brown face brick, metal deck roofs, white carpark screens, painted panel screens, metal cladding, black aluminium framed glazing and glass louvers. A copy of the development plans is included at **Attachment 4**.

6. Planning controls

6.1 The planning controls that relate to the proposed development are as follows:

(a) Environmental Planning and Assessment Act 1979 (EPA Act) and Regulation

For an assessment against the EPA Act Section 79C 'Heads of Consideration' refer to **Attachment 5**. Under the EPA Regulation 2000, a design verification statement is required and has been provided by a registered architect.

The proposal does not strictly achieve all of the requirements of State Environmental Planning Policy No. 65 (SEPP 65) – *Design Quality of Residential Flat Development*, and does not meet some of the numerical criteria of the RFDC as this is not a residential flat development. However, the DA will be conditioned to meet the RFDC requirements where possible. Further details are provided in Section (e) below.

(b) State Environmental Planning Policy (State and Regional Development) 2011

The Joint Regional Planning Panel (JRPP) is the consent authority for all development with a capital investment value (CIV) of over \$20 million. The DA has a CIV of \$58,160,000. While Council officers are responsible for the assessment of the DA, determination of the application will be made by the Sydney West JRPP.

(c) State Environmental Planning Policy (Infrastructure) 2007

Clause 85 of SEPP (Infrastructure) 2007 applies to this development as it is located immediately adjacent to a rail corridor and involves the placing of a metal finish on a structure. Clause 86 of the SEPP also applies because the development is located within 25 metres of the rail corridor and involves excavation to a depth of at least 2 metres. The proposed development therefore requires the concurrence of Railcorp (Sydney Trains).

Sydney Trains has granted its concurrence to the approval of the DA, subject to a deferred commencement condition and operational conditions that have been included in the recommended conditions at **Attachment 1**.

Clause 87 of the SEPP also applies as the proposal includes residential development that is likely to be affected by rail noise or vibration. Consequently, the consent authority must be satisfied that the noise level standards specified in the SEPP will not be exceeded. A noise impact assessment has been prepared for the proposal by Acoustic Logic. The issue of noise has been considered by Council's Environmental Health Officers and is discussed further in Section 9 below.

SEPP (Infrastructure) 2007 ensures that the Roads & Maritime Services (RMS) is given the opportunity to comment on development nominated as 'traffic generating development' under Schedule 3 of the SEPP. As the development provides over 200 car parking spaces, it was referred to the RMS. RMS has reviewed the DA and has raised no objection to the proposal.

(d) State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy No. 55 – Remediation of Land aims to *'provide a State wide planning approach to the remediation of contaminated land'*. Where contamination is, or may be, present, the SEPP requires a proponent to investigate the site and provide the consent authority with the information to carry out its planning functions. A detailed environmental site contamination report has been prepared by Environmental Consulting Services Pty Ltd.

Most of the site is currently vacant, with an existing IGA supermarket located in the north-west corner of the site. It is proposed that the site will be redeveloped for residential and commercial purposes. The history of the site has indicated the potential for contamination resulting from the placement of fill from railway activities and past farming activities.

A preliminary environmental site investigation has been undertaken on the western portion of the site only (i.e. to the west of Depot Street). The investigation included the excavation of 20 test pits and the collection of soil and groundwater samples for laboratory analysis.

The site contamination report concludes that:

- Testing of the fill material on site has not indicated the presence of contamination above residential or commercial guidelines and asbestos was not detected.

- Soil sampling of the natural clays shows that these soils do not contain concentrations of the contaminants of concern above the relevant residential or commercial site assessment guidelines.
- The analysis of groundwater samples indicated elevated concentration of some metals. These concentrations are above the site assessment guidelines but are at concentrations consistent with regional background levels. The concentrations of metals in the groundwater are not considered to represent a human health risk or a risk to the environment. The concentrations are not considered significant with respect to the proposed development of the site.

A separate site contamination report was commissioned over the eastern portion of the site. The investigation included the excavation of 27 bore holes over the whole of this site for the collection of soil samples, and 3 groundwater samples for laboratory analysis. The site contamination report concluded:

- The management of asbestos contamination will be the primary concern in any development of the site, including the preparation of an Asbestos Management Plan (AMP) to direct the procedures to be followed should asbestos be found during future civil and construction works associated with the development.
- The removal and off-site disposal of asbestos and general solid waste material.
- All groundwater testing was found to be within the screening criteria and acceptable.
- Lead contamination was detected above the National Environment Protection Measures 1999 (April 2013) (NEPM) residential soil guidelines. It is recommended that this area be further tested and if samples are found that are above the acceptable threshold, such as to pose a risk to human health, then these are to be removed from the site.

A **condition** will be imposed requiring that a Remediation Action Plan be completed for the eastern portion of the development site.

A further **condition** will require that, upon completion of any necessary remediation, a final site validation is to be submitted to Council for the entire development site, prior to the issue of the Construction Certificate. The environmental consultant is to validate that the site has been fully remediated and is suitable for the proposed sensitive residential development with exposed soils and gardens.

In conclusion, the consultant considers that the entire site is suitable for ongoing commercial and residential use (including aged care residential purposes) and that it does not pose a risk to human health or the environment. However, it is recommended that the groundwater not be extracted for any use without further assessment. It is recommended that a **condition** be imposed on the consent to also address this matter.

(e) State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development and Residential Flat Design Code (RFDC)

State Environmental Planning Policy No. 65 (SEPP 65) – *Design Quality of Residential Flat Development* applies to the assessment of DAs for residential flat buildings 3 or more storeys in height that contain at least 4 dwellings. The SEPP therefore does not apply to the community or commercial components of the development.

The DA was lodged prior to amendment 3 of SEPP 65 that was published on 19 June 2015. The proposal has therefore been assessed under SEPP 65 as it existed before the amendment, and the then applicable Residential Flat Design Code (RDFC).

As part of the submission requirements, the DA must provide an explanation of the design in terms of the 10 'design quality principles' set out in Part 2 of the SEPP. A design verification statement, prepared by a registered architect, has been submitted to address these 10 principles.

The proposal does not strictly achieve all of the 10 design principles and does not meet some of the numerical criteria of the RDFC as this is not a residential flat development. The self-care unit buildings provide a building separation distance of 9.35 m between Buildings 1 and 2, and a building separation of 8.9 m between Buildings 3 and 4, instead of the required 12 m. Several units also do not satisfy the minimum unit size and dimensions, or the solar access and natural ventilation requirements. The applicant states that 70% of the units receive 3 hours direct sunlight to the living rooms, but this has not been justified. Our assessment indicates that only 50.3% of the units comply. The applicant has submitted a design verification statement that requests that these variations be accepted. The basis for the request is that this is a seniors housing project and is not a standard residential flat development.

The 8.9 m – 9.35 m building separation is considered acceptable, given that the separation is between bedroom windows and balconies that can be provided with suitable privacy screens. The architectural plans indicate that timber batten screens will be installed to some of the bedroom windows. To ensure adequate privacy is achieved to all of the units, however, a condition will be imposed requiring that the proposed screening be provided to all of the impacted bedroom windows and balconies. Separate details will need to be submitted for the separate consent of Council as part of the deferred commencement condition.

The acoustic report also recommends that the bedroom windows in the western facades be provided with a glazing thickness of 6.38 mm (i.e. those windows orientated towards Rooty Hill Road South) and that the bedroom windows in the eastern façades be provided with a glazing thickness of 6 mm. Acoustic seals are to be provided around these windows. To eliminate any potential noise impacts arising from the reduced building separation, it is recommended that all of the impacted bedroom windows be provided with a minimum glazing thickness of 6.38 mm and that this matter be addressed as a condition of consent.

To address the other non-compliances, it is recommended that a deferred commencement condition be imposed requiring that the floor-to-ceiling height of all habitable rooms be increased to a minimum of 2.7 m, that several of the living/dining rooms be reorientated so that they will have a window with a northern or north-western aspect, that some of the windows in the north-eastern walls be increased to an area of at least 2 sqm, and that the 'resident store' areas be amended to allow some of the corridors to be widened to a minimum of 1.5 m. The increase in the floor-to-ceiling height will result in the 4 retirement living buildings being increased in height by 0.9 m. Building 1 will therefore have an overall height of 15.7 m to the parapet, Building 2 will measure 15.9 m to the parapet, and Buildings 3 and 4 will measure 14 m to the parapet. The overall height of the development is considered acceptable.

While there is no guarantee that all the numerical criteria of the RDFC will be achieved by these modifications, the increased ceiling heights and better solar access and ventilation will improve the internal amenity of the units. On their merits, particularly as the proposal is for much needed affordable seniors residential accommodation, the variations are considered acceptable.

Council officer assessment of the development in relation to SEPP 65 and the RFDC is at **Attachment 6**.

(f) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A multi dwelling BASIX Certificate, thermal performance criteria and Building Code of Australia (BCA) Section J - energy efficient provisions report have all been lodged as part of the DA. The BASIX Certificate confirms that the proposed development will meet the NSW Government's requirements for sustainability if it is built in accordance with the commitments set out in the Certificate. A suitable condition will be imposed on the consent requiring compliance with the submitted BASIX Certificate.

(g) State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP Seniors Housing)

Under BLEP 1988 the site was zoned 2(a) Residential, 3(a) General Business, 5(a) Special Uses Railway and 5(a) Special Uses Telecom.

Under SEPP Seniors Housing, seniors housing is permissible with consent in the 2(a) and 3(a) zones. Within the 5(a) zones, seniors housing is permissible subject to the provision of a Site Compatibility Certificate issued by the Secretary of the Department of Planning and Environment (DoPE). The required certificate, under Clause 25 (4)(a) of the SEPP, was issued for the proposed development on 14 September 2015. Therefore the proposed development is permissible under SEPP Seniors Housing with consent. A copy of the Site Compatibility Certificate is at **Attachment 2**. The certificate does not cover the land known as Depot Street, but this area will only be used as a driveway.

The applicant, Anglican Retirement Villages (ARV), is a not-for-profit organisation providing various levels of care for people in need and is defined as a *social housing provider* under the definition of SEPP Seniors Housing. The application therefore does not need to satisfy all of the development standards for seniors housing.

Attachment 7 provides an assessment of the development's compliance with the criteria and development standards within SEPP Seniors Housing.

Under SEPP Seniors Housing, Clause 40(4) states:

If the development is proposed in a residential zone where residential flat buildings are not permitted:

- (a) the height of all buildings in the proposed development must be 8 metres or less, and*
- (b) a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and*
- (c) a building located in the rear 25% area of the site must not exceed 1 storey in height.*

Clause 40(4) applies to the land in the south-eastern corner of the site fronting Mavis Street. This portion of the site was zoned 2(a) under BLEP 1988 and does not permit residential flat buildings. However, Clause 40(5) of the SEPP states:

Subclauses 2, 3 and (4)(c) do not apply to a development application made by any of the following:

- (a) the Department of Housing,*
- (b) any other social housing provider.*

As the applicant is a social housing provider, Clause 40(4)(c) does not apply. Clauses 40(4)(a) and (4)(b), however, do apply and require that development in the 2(a) zone not exceed 8 m or 2 storeys in height. The building in the south-eastern corner of the site (retirement living Building 4) has a height of 13.1 m to the parapet and therefore does not comply with this development standard.

A submission under SEPP No. 1 has been submitted justifying the variation to the development standard. Given that this part of the site is now zoned R4 High Density Residential and has a 14 m height limit (i.e. 4 storeys) under BLEP 2015, proposed Building 4, with a height of 11.6 m to the ceiling and 13.1 m to the parapet, is considered acceptable.

As part of the consent, however, it is recommended that a deferred commencement condition be imposed requiring that the floor-to-ceiling height of all habitable rooms be increased from 2.4 m to a minimum of 2.7 m. As the building contains 3 residential levels, the overall height will increase by 0.9 m to 14 m, but is still considered acceptable.

(h) **State Environmental Planning Policy No 64 – Advertising and Signage**

The proposal includes the erection of a temporary 'directional' billboard sign identifying the location of each building during construction, and 2 permanent business identification signs for the ARV facilities. Details of the permanent signs are provided on the photomontages at **Attachment 3**.

The proposed signage is consistent with a development of this type and scale. The proposed dimensions, colours and placement are considered to be suitable for their purpose and will assist visitors to the site. The proposed signs are compatible with the existing and future character of the local area and are unlikely to have any adverse impact on the streetscape. The proposal is considered to be consistent with the objectives and assessment criteria of SEPP 64.

Our assessment of the development in relation to SEPP 64 is at **Attachment 8**.

(i) **Blacktown Local Environmental Plan (BLEP) 1988**

The provisions of BLEP 1988 apply to this DA as it was lodged prior to 7 July 2015 when the new BLEP 2015 came into force. There are no height or floor space ratio (FSR) controls under the provisions of BLEP 1988 that apply to this development proposal.

Clause 16A of BLEP 1988 states that, before granting consent to development in the vicinity of a heritage item, the consent authority must assess the impact of the proposed development on the heritage significance of the item.

Directly opposite the site, on the corner of Barker Street and Rooty Hill Road South, is the Rooty Hill School of Arts. This building is listed as a local heritage item under both BLEP 1988 and BLEP 2015. The adjacent Rooty Hill railway station is also a local heritage item under BLEP 2015.

A historical heritage appraisal and archaeological assessment has been submitted as part of the DA. The assessment concludes that the development will have no detrimental impact on either of these 2 local heritage items. The setting and view corridors associated with the School of Arts will not be impacted by the proposed development.

The appearance and setting of the railway station has changed over time, most notably with the upgrade involving steel overhead footbridges in c.2000 and the construction of the IGA c.2004. The proposed development may further alter the already impacted views to and from the railway station platform and associated buildings. The heritage assessment recommends that consideration be given to

undertaking a pre-development archival photographic recording that captures general views to the station complex from the study area and also views from the station over the study area. A condition will be imposed on the consent to address this matter.

The site comprises land that is at or below the 1% annual exceedance probability flood. Under clause 20 of BLEP 1988 ... *the Council may refuse consent to the carrying out of any development on land affected by the 1% annual exceedance probability flood where, in its opinion, the development may:*

- (a) adversely affect the efficiency, or unduly restrict the capacity, of the floodway or where the safety of the development would be affected in time of flood,*
- (b) affect the flood peak at any point upstream or downstream of the development,*
- (c) affect, to a substantial degree, the flow of floodwater on adjoining lands,*
- (d) cause avoidable erosion, siltation or unnecessary destruction of riverbank vegetation in the area,*
- (e) affect the water table on any adjoining land,*
- (f) adversely affect riverbank stability, or*
- (g) create a hazard to life or property in time of flood.*

A flood study has been prepared which supports the proposed development. Council's engineering and drainage officers have assessed the study and the proposed stormwater and civil engineering works, including the provision of flood storage basins at the Mavis Street frontage. The proposed 'retirement living' buildings have been provided with ground level undercroft parking areas and 3 residential levels above. This design ensures that there will be no flood impacts on the habitable areas of the buildings.

No objections have been raised to the development subject to appropriate conditions of consent that have been included at **Attachment 1**.

(j) Draft Blacktown Local Environmental Plan (BLEP) 2013 / Blacktown Local Environmental Plan (BLEP) 2015

At the time of lodging the DA, draft BLEP 2013 had been publicly exhibited. Under draft BLEP 2013, the site was proposed to be zoned part B2 and part R4 with a height limit of 14 m across the site. Draft BLEP 2013 was made as BLEP 2015 and came into operation on 7 July 2015. The B2 and R4 zones, and height limit of 14 m, were retained as exhibited. For the purpose of this assessment, the draft plan can be given considerable weight because it was imminent and its contents were certain. At the time of lodging the DA the land was partly subject to a height limit of 2 storeys over the 3(a) and 2(a) zones, with no height limit over the 5(a) zones. On its merits, however, the development as proposed with an overall height limit of 16.2 m over the former 3(a) and 2(a) zones is considered acceptable as it is generally consistent with the 14 m height limit.

Under BLEP 2015 Clause 7.7, the site is identified on the Design Excellence Map. The objective of this clause is to ensure that development exhibits 'design excellence' that contributes to the natural, cultural, visual and built character values of Blacktown City. Development consent must not be granted to development unless the consent authority considers that the development exhibits design excellence. The clause sets out matters for consideration, including the Blacktown Development Control Plan (DCP) 2006.

The bulk, scale and massing of the proposal are considered to be suitable for the site's location within a town centre. Council's City Architect has advised that: *"Generally it is of a good standard of design. The building form is highly articulated with an interesting composition of materials and colours."*

(k) Blacktown Development Control Plan (BDCP) 2006

BDCP 2006 was in force when the DA was lodged and therefore applies. The relevant parts of the DCP are Part A (car parking requirements), Part C (Section 8, Housing for aged and disabled persons) and Part D - Development in the Business Zones. However, as the provisions of the environmental planning instruments discussed above take precedence over BDCP, the range of matters to be considered is limited.

(i) Part A - car parking requirements

Following is a summary of the car parking requirements that apply to the development. The DCP also requires that parking for aged and disabled persons housing (including hostels) be in accordance with State Environmental Planning Policy No 5 – Housing for Aged and Disabled Persons (now SEPP Seniors Housing).

	Requirement under Council's DCP	Requirement under SEPP (Seniors Housing) for a social housing provider	TOTAL required	TOTAL provided
Retail/business component (being a 631 sqm IGA supermarket, 94 sqm café employing 2 staff, 136 sqm of retail space, 364 sqm of commercial space and a 112 sqm community care tenancy)	1 per 22 sqm GFA for the supermarket, 1 per 10 sqm GFA for the café plus 1 per 2 staff, 1 per 30 sqm GFA for retail, and 1 per 40 sqm GFA for commercial & the community care tenancy	N/A	56	5 new on-street spaces and 51 on-site spaces
Hostel (24 beds)	N/A	1 per 5 dwellings + 1 ambulance space	5 + 1 ambulance space	(See notes below)

Notes:

The hostel does not provide any car parking spaces immediately adjoining the building. The other components of the Seniors Housing development, however, well exceed the minimum car parking requirements. The surplus spaces provided across the site could therefore cater for the shortfall in this portion of the site. The overall parking arrangements for the Seniors Housing development are considered satisfactory.

It is proposed that the ambulance parking provided for the adjoining residential aged car facility will be shared by the hostel. Ambulance parking on site is considered satisfactory.

The hostel will accommodate 1 manager, however this staff member will be a permanent resident living elsewhere on the site. A separate manager's residence and car parking space is therefore not required for the hostel.

	Requirement under Council's DCP	Requirement under SEPP (Seniors Housing) for a social housing provider	TOTAL required	TOTAL provided
Residential aged care facility (90 beds and 36 staff)	N/A	1 per 10 beds + 1 per 2 staff + 1 ambulance space	9 + 18 + 1 ambulance	27 + 1 ambulance + 1 minibus
Infill self-care aged housing (165 units across 4 buildings)	N/A	1 space per 5 dwellings	33	33 + 18 + 37 + 28 = 116 (i.e. 83 surplus spaces provided)
Community building	N/A	N/A	No car parking spaces are required for the community building, as it is an ancillary building for the exclusive use of the residents	15 adjacent to the building and bowling green + 1 minibus (i.e. these are all surplus spaces)

A total of 209 on-site car parking spaces are provided for the development. Based on the above calculations, this is a surplus of 98 car parking spaces and 2 minibus spaces (i.e. 100 spaces in total). 83 of the surplus spaces are provided at ground level under the 4 'retirement living' buildings. The other 15 spaces are located in the centre of the site adjacent to the community building and bowling green. For the seniors housing components of the development, the 158 spaces provided are well in excess of the 60 spaces required under the SEPP.

The remaining 51 on-site car parking spaces are for the retail/commercial components of the development. This is a shortfall of 5 spaces. To make up for the shortfall, the 2 vehicle crossings from Rooty Hill Road South will be closed and 5 additional on-street car parking spaces will be provided. The spaces are indented and provided at a 90 degree angle to the kerb. The 5 new spaces will supplement the existing 20 on-street spaces already provided in front of the proposed mixed use building. The proposed parking arrangements are discussed further in Section 9.

(ii) Part C – Section 8 Housing for aged or disabled persons

The DCP requires compliance with the provisions of SEPP Seniors Housing. In addition to these requirements, the DCP requires that the following matters be addressed:

- **Height:** Depending on the level of disability involved, the DCP requires that buildings for aged or disabled housing be 1 storey. This is inconsistent with the SEPP and is unjustified given that lifts are provided to all levels of the proposed buildings on site. A variation to the height limit under SEPP Seniors Housing for the 2(a) zoned portion of land under BLEP 1988 has been requested by the applicant and is considered to be satisfactory.
- **Design:** Issues such as wheelchair access, orientation, balcony sizes and accessible units are covered by the provisions of SEPP 65 and SEPP Seniors Housing. The proposed laundry facilities meet the requirements of the BDCP. The development will also be required to meet the Australian

Standards for design for access mobility and the Building Code of Australia (BCA).

- **Facilities:** The residential aged care facility and hostel are provided with the services listed in the DCP, including medical consulting rooms, kitchens, craft/communal areas, dining areas and cafes. All hostel and residential aged care rooms are single bedrooms. The infill self-care housing units have access to centrally located indoor and outdoor communal areas and facilities, including community rooms, lounge space, kitchen, meeting room, craft room, computer room, outdoor passive recreation areas and bowling green. The development provides a mix of units, including 81 x 1 bedroom units and 84 x 2 bedroom units. The community building is approximately 438 sqm, which is well in excess of the size of 3 units as required by the DCP.
- **Car parking:** The proposed Seniors Housing development exceeds the SEPP parking requirements by 98 car parking spaces. Details of the proposed parking arrangements are provided in the table above.

(iii) Part D – Development in the Business Zones

- Section 4.12 of the DCP states that where there is residential development above shops in a local centre, the finished development should not be more than 2 storeys. Subsequent to BDCP 2006, Council adopted the Rooty Hill town centre masterplan in June 2012. The masterplan envisages a 4 storey scale for the local centre and adjoining R4 zoning, which is reflected in the 14 m building height limit under BLEP 2015.
- Under Section 7 of the DCP, Rooty Hill is defined as a large neighbourhood centre. In existing centres, any proposal for additions or redevelopment should ensure that landscape/streetscape improvements are implemented and bus facilities are provided where appropriate. All car parking is required to be provided on-site. The proposed development requires 56 commercial/retail car parking spaces. 51 spaces are provided on-site. To make up for the shortfall, the 2 vehicle crossings from Rooty Hill Road South will be closed and 5 additional on-street car parking spaces will be provided. The proposed car parking arrangements for the commercial/retail component of the development are considered to satisfy the requirements of the DCP. The proposal also includes street paving, awning and vegetation planting in Rooty Hill Road South.

(i) **Rooty Hill Town Centre Masterplan**

The Rooty Hill Town Centre Masterplan was adopted by Council in 2012 and sets out the vision for the renewal of the centre. It includes the local business centre and surrounding residential and open space land, including the whole of the subject site. The Masterplan informed the preparation of BLEP 2015. The Masterplan promotes higher density forms, a mix of employment uses, continued improvements to the public domain, open spaces and green linkages. Under the Masterplan the height of buildings is to be 14 metres (i.e. 4 storeys). Buildings should reinforce the street alignment and urban character, improve pedestrian amenity and activity at street level, create an appropriate building scale for pedestrians and provide good growing conditions for street trees. Any redevelopment should also improve landscaping and encourage mixed use development along Rooty Hill Road South to activate the area with retail, residential and employment uses.

The proposed development is consistent with the Masterplan's desired future character, scale and land uses and will assist in its implementation.

(m) Section 94 Contributions Plan No 3 – Open Space in Established Residential Areas

Under a Ministerial Direction made under section 94E of the EPA Act 1979, Council may not levy a development contribution on any form of seniors housing as defined in SEPP Seniors Housing where the applicant is a social housing provider. Consequently Section 94 development contributions may not be levied on this DA.

7. External referrals

7.1 The DA was referred to external authorities as summarised below:

Authority	Comments
Roads and Maritime Services (RMS)	RMS has reviewed the DA and raises no objection to the application. No comments or recommended conditions of consent were provided by the RMS.
NSW Police	NSW Police reviewed the submitted 'Crime Prevention Through Environmental Design' (CPTED) report. The Police requested that Council take into consideration the proximity of the adjoining licensed venue (Lone Pine Tavern), with possible issues associated with excessive noise, disorderly behaviour, theft, damage to property, graffiti and crimes of violence associated with the consumption of alcohol. The Police have not objected to the DA, subject to the imposition of appropriate conditions to address surveillance and safety around the site. Conditions to address lighting, landscaping, CCTV and the like have been included in the draft consent at Attachment 1 .
Sydney Trains	Following the submission of additional information, Sydney Trains granted its concurrence to the development subject to a deferred commencement condition and various operational conditions. The deferred commencement condition has been imposed to address the proposed excavation works associated with the basement carpark. The other conditions are considered standard conditions and will ensure protection of the rail corridor and the amenity of the future occupants of the site. These matters will be included as conditions of the consent. The DA was also separately referred to the heritage section of Sydney Trains given that the train station is listed as a local heritage item under BLEP 2015. In response, Sydney Trains advised that their original concurrence and conditions remained unchanged.
Office of Environment and Heritage	The NSW Heritage Office advised that neither the study area nor any items within it are listed on the State Heritage Register, and hence the Heritage Council of NSW is not a consent authority in this instance. The Heritage Office recognises that the School of Arts is visually separated from the study area and therefore is unlikely to be affected by the development. It did recommend, however, that Council give consideration to any adverse impact on the heritage significance of the view corridors associated with the Rooty Hill railway station. The submitted heritage assessment recommends that consideration be given to undertaking a pre-development archival photographic recording that captures general views to the station complex from the study area and also views from the station over the study area. A condition will be imposed on the consent to address this matter.

Authority	Comments
Local Historical Groups	As part of the assessment process, the DA was referred to the Mount Druitt Historical Society, Toongabbie & District Historical Society, Riverstone & District Historical Society, Blacktown & District Historical Society and the Prospect Heritage Trust. No comments were received from any of these groups.

8. Internal referrals

8.1 The DA was referred to internal sections of Council for comment as summarised below:

Section	Comments
Engineering & Drainage	As part of the assessment process, amended drainage plans and information was requested. The revised development is considered satisfactory subject to the engineering and drainage conditions included at Attachment 1 .
Building	No objections have been raised subject to the site being consolidated and a separate DA being lodged for the demolition of the existing IGA building. When the DA was originally submitted, the development area included 17 separate lots owned by ARV. These 17 lots have now been consolidated into a single lot known as Lot 1 DP 1202126. Lot 18 DP 2570, Lot 19 DP2579 and Lot 1 DP624679 are still in Council's ownership and include a small narrow strip of land and the adjacent unformed Depot Street. Council's Property Section is in the process of formally closing Depot Street, after which ARV will purchase the land. Once in ARV's ownership, these allotments will need to be consolidated with Lot 1 DP 1202126. This will be addressed as a condition of consent. An appropriate condition to address the required demolition works is also included in the draft consent at Attachment 1.
Traffic Management Section (TMS)	Council's TMS has reviewed the applicant's traffic report prepared by Varga Traffic Planning. TMS has raised no objection to the DA and has not requested that any specific conditions be imposed. TMS has also raised no objection to the proposed car parking arrangements. The provision of 5 new indented 90 degree on-street car parking spaces will be addressed as a condition of consent.
Waste Services	No objection has been raised by Council's Waste Services Section, subject to compliance with the submitted waste management plan. ARV will engage WasteFree Australia P/L for the waste collection and management for the development. Appropriate conditions will be imposed to address the private, on-site collection of waste.
Environmental Health Unit (EHU)	Council's EHU has raised no objections to the development subject to conditions. The EHU has considered the submission lodged on behalf of the Lone Pine Tavern, together with the applicant's noise impact assessment. In response, appropriate conditions have been recommended to ensure the acoustic amenity of the development will be protected. Given the proposed layout and orientation of the seniors housing, it is considered that the neighbouring Lone Pine Tavern will not be a major noise concern to future residents.

Section	Comments
Strategic Planning	No comments or recommended conditions of consent were provided by Council's Strategic Planning Section.
Heritage Advisor	Council's Heritage Advisor has raised no objection to the DA and has not requested that any specific conditions be imposed.
City Architect	Council's City Architect considers that the development is of a good standard of design. The building form is highly articulated with an interesting composition of materials and colours. It has been recommended, however, that the car spaces adjacent to the 3 storey residential aged care facility be relocated to the northern boundary of the site. This will allow the proposed tree planting between the car spaces to occur on the property boundary and provide further screening of the rail corridor. This is considered a minor amendment and will be addressed as a condition of consent.

9. Key issues

9.1 An assessment of the key issues relating to the proposed development is provided below:

(a) Stormwater / flooding

The development site is located in a low flood risk precinct. A flood study has been prepared and supports the proposed development. Council's engineering and drainage officers have assessed the proposed stormwater and civil engineering works, including the provision of flood storage basins at the Mavis Street frontage. Following the submission of amended plans and additional information, no objections have been raised to the development subject to appropriate conditions of consent.

(b) Internal amenity

Assessment of the proposed development with respect to SEPP Seniors Housing and SEPP 65 identified that the in fill self-care units (i.e. the 4 retirement living buildings) will not deliver an acceptable level of amenity for the future residents. It is appreciated that the nature of the proposed development and the purpose for which the housing is being provided is relevant to the consideration of this matter. In those circumstances it is accepted that not all of the design criteria of the Residential Flat Design Code (RFDC) can be achieved.

The proposed non-compliances are as follows:

- The adopted footprint of the 4 buildings dictates that the corridors are long, narrow and provide diminished natural light.
- Only 50.3% of the units receive the required 3 hours of solar access. Under the RFDC, however, 70% of units must receive 3 hours of sunlight to living areas.
- The length of the buildings results in a high proportion of the units not receiving natural cross ventilation.
- There is insufficient separation between buildings. A building separation distance of 9.35 m is provided between Buildings 1 and 2, and a building separation of 8.9 m is provided between Buildings 3 and 4, instead of the required 12 m.

- All units are of a size that is below the specified minimum floor area and dimensions under the RFDC. However, this is considered acceptable for this form of housing.
- The units also have a floor to ceiling height of 2.4 m, where 2.7 m is now universally accepted as the minimum.

To improve the future occupants' amenity, it is recommended that:

- Privacy screening be provided to all bedroom windows and balconies where the distance separation between the retirement living buildings is less than 12 m (i.e. to the east elevation of Buildings 1 and 3, and to the west elevations of Buildings 2 and 4).
- The bedroom windows provided in the east elevation of Buildings 1 and 3, and the west elevations of Buildings 2 and 4, be provided with a glazing thickness of 6.38 mm and acoustic seals.
- The floor-to-ceiling height of all habitable rooms contained within the retirement living buildings be increased to a minimum of 2.7 m. This is considered a minimal change that will allow the units to receive more sunlight and better ventilation.
- Some of the units be redesigned to orientate the living/dining rooms to the north-east or north-west, to allow more of the units to receive adequate solar access. This change can be achieved without significant cost implications.
- Some of the windows in the north-eastern walls of the retirement living buildings be increased to an area of at least 2 sqm.
- The 'resident store' areas be amended to allow the corridors to be widened to a minimum width of 1.5 m where possible.

While there is no guarantee that all the numerical criteria of the RFDC will be achieved by these modifications, the proposed modifications will improve the internal amenity of the units. It is recommended that these changes be addressed as a deferred commencement condition of the consent.

(c) Interaction with adjoining development

The owners of the adjoining Lone Pine Tavern are concerned that there will be potential conflict between the future residents and the operators of the tavern. At present, the tavern is isolated from dwellings and some potential sources of complaint. The NSW Police have reviewed the submitted CPTED report. Its advice is that Council take into consideration the proximity of the licensed venue, with possible issues being excessive noise, disorderly behaviour, damage to property, graffiti and crimes of violence associated with the consumption of alcohol. The Police had no significant objections to the DA, subject to conditions relating to security, lighting, CCTV and the like being imposed on the consent.

The hostel accommodation, adjoining the tavern, is located on the second and third floor levels. At the upper residential levels there are no window openings facing the tavern (i.e. the southern elevation presents as a blank wall). These hostel units are provided with either a west facing window (facing Rooty Hill Road South) or an east facing window. The adjoining residential care building has a limited number of units that are orientated towards the tavern at the first and second floor levels.

To eliminate any potential noise complaints arising from the operations of the adjoining Lone Pine Tavern, it is recommended that any bedroom window located within 20 m of the northern or eastern boundary of the tavern be provided with a

minimum glazing thickness of 10.38 mm (i.e. double glazing) and that this be addressed as a condition of consent.

It is also recommended that a condition be imposed requiring that the existing 1.8 m high boundary fencing along the northern and eastern boundaries of the tavern be increased to 2.1 m to protect the privacy of the future residents, and that the new fencing be provided at full cost to the developer.

It is considered that a 2.1 m acoustic fence would provide limited benefits, as the ground floor uses on site are non-residential in nature. Any acoustic fence would therefore need to be of a significant height to benefit the residents at the first, second and third floor levels. A fence exceeding 2.1 m, however, is not considered appropriate in a residential setting.

Suitable conditions will also be imposed on the consent to ensure that the residential lobby and lift provided for the mixed use building fronting Rooty Hill Road South is provided with a secure, card-key operating system to prevent unauthorised access into the building.

(d) Noise

Noise impacts on the proposed development are a significant issue in relation to both the adjacent Lone Pine Tavern and the western railway line. Under Clause 87 of SEPP Infrastructure 2007, the consent authority must be satisfied that the noise level standards specified in the SEPP in relation to rail noise or vibration will not be exceeded.

A noise impact assessment has been prepared by Acoustic Logic. The assessment recommends that acoustic glazing be provided to all external window and door openings, with the thickness ranging from 6 mm to 10.38 mm. The external windows and doors are also required to be fitted with acoustic seals.

The issue of noise has also been considered by Council's Environmental Health Officers. It is recommended that a post commissioning noise report be submitted demonstrating that the recommended acoustic treatments (i.e. glazing and seals) satisfy the SEPP standards.

A submission on behalf of the Lone Pine Tavern raised concerns in relation to potential future land use conflicts between the proposed residential development and the late-night operations of the tavern. Issues relating to this submission are discussed in Section 10. The development must provide adequate acoustic privacy for all future residents. The tavern is permitted to generate noise during the night and it is the responsibility of the applicant to respond appropriately to this constraint.

Conditions, including those outlined in item (c) above, will be placed on the development to ensure the acoustic amenity of the residents will be protected.

(e) Heritage

The Rooty Hill School of Arts is located opposite the site, on the corner of Barker Street and Rooty Hill Road South. This is a local heritage item under both BLEP 1988 and BLEP 2015. The adjacent Rooty Hill railway station is also a local heritage item under BLEP 2015.

A historical heritage appraisal and archaeological assessment has been prepared by Mary Dallas Consulting Archaeologists. The assessment concludes that the proposed development will have no detrimental impact on either of these local heritage items. The statement of heritage impact states that the site has no historical cultural heritage significance, nor historical archaeological sensitivity. The setting and view corridors associated with the School of Arts will not be impacted

by the proposed development. In relation to the railway station, the proposed development may further alter the already impacted views to and from the railway station platform and associated buildings. The assessment therefore recommends that consideration be given to undertaking a pre-development archival photographic recording that captures general views to the station complex from the study area and also views from the station over the study area. A condition of consent addressing this matter has been included.

(f) Traffic and parking

The applicant has submitted a traffic and parking assessment report, prepared by Varga Traffic Planning Pty Ltd. Council's Traffic Management Services (TMS) advises that the additional traffic generated can be accommodated within the existing street network and that the development is unlikely to have any adverse impact on the on-street parking supply in the area. Traffic impact is an implication that would have been considered when the subject site was zoned to permit an increase in housing density.

The provision of parking for the residential components of the development is well in excess of the minimum requirements under SEPP Seniors Housing (i.e. 98 additional car parking spaces). The proposed commercial/retail car parking spaces also comply with the requirements of the DCP, subject to 5 additional on-street car parking spaces being provided.

Other than any designated staff car parking spaces, it is proposed that a 3 hour time limit will be imposed on the commercial / retail car spaces. This is proposed to prevent use of the carpark by railway commuters. The 3 hour time limit, however, will be nominated by on-site signage only and cannot be policed by Council or the applicant without a separate Council approval. As such, no infringement notices can be issued for a breach of the 3 hour time limit. Any proposal for a controlled carpark will require the submission of a separate DA for Council's consideration.

The loading dock for the mixed use building is located at the rear of the proposed IGA supermarket. Only the IGA has internal access to the loading dock. The other businesses in the building can only access the loading dock by walking around the perimeter of the building. This is likely to encourage loading / unloading from Rooty Hill Road South. As the building is most likely to be occupied by service providers (i.e. doctor, hairdresser, dentist) it is anticipated that the amount of loading/unloading will be minor. The proposed loading/unloading arrangements are therefore considered acceptable.

The loading dock can only be accessed from Mavis Street, which will necessitate a variety of trucks (including 8.8 m long rigid trucks) passing through the development. In order to reduce the noise impact of the trucks on the residents, it is recommended that all loading and unloading operations be limited to the same hours of operation of the supermarket. This will be addressed as a condition of consent.

10. Public comment

- 10.1 The DA was notified to adjoining and nearby property owners and occupants from 14 to 27 October 2015. An advertisement was also placed in the local newspaper and a notification sign was displayed on site.
- 10.2 In response to the public notification, 1 submission was received on behalf of the adjoining Lone Pine Tavern. The submission does not object to the development, but instead recommends that conditions be imposed to ensure that future residents will not

be impacted by the tavern's late night operations. Figure 5 below identifies the location of the tavern.

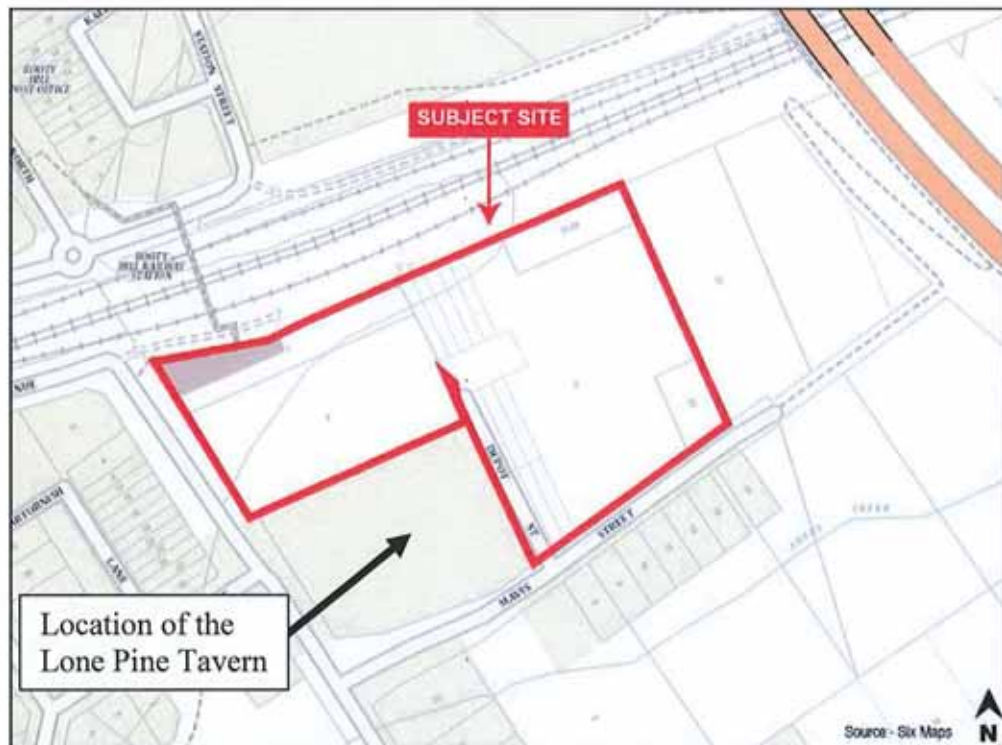


Figure 7. Location of submitter's property

10.3 A summary of the concerns raised and our response is detailed below.

External noise impact on new residents

The submission raised concerns in relation to potential future land use conflicts between the proposed residential development and the existing late night operation of the tavern. In particular, there is concern that late night operation will generate complaints from the new residents.

The tavern is permitted to trade between 10 am and midnight, Monday to Wednesday, 10 am to 3 am Thursday to Saturday, and 10 am to 10 pm on Sunday. The submission suggests that to minimise impacts on the adjoining residents, the premises be constructed with double glazing and that noise measurements from the tavern's activities be measured with windows and doors closed. In order to protect the interests of the residents and the operation of the tavern, the submission recommends the following conditions:

- An acoustic assessment report be submitted and construction to be in accordance with the findings of this report.
- The developer register a covenant on the certificate of title that acknowledges the 'order of occupation' with respect to the Lone Pine Tavern. The covenant is to prohibit any resident from bringing an action of complaint against the tavern arising from noise associated with its operation.

The submission concludes that, subject to the imposition of these conditions, there is no reason with respect to acoustic impact why the development should not proceed.

Town planning comment:

- A noise impact assessment, prepared by *Acoustic Logic* dated 4 September 2014, was submitted with the DA. Council's Environmental Health Officer has reviewed the assessment, together with the submission on behalf of the tavern. Council's Environmental Health Officer advised:

"In response, appropriate conditions have been placed on this proposal to ensure the acoustic amenity of the area will be protected. All receivers and noise emitters have been considered. Given the proposed layout and orientation of the seniors housing on the site, it is unlikely that the neighbouring Lone Pine Tavern will be the main concern regarding noise on the residents of the proposed development."

- Appropriate conditions have been included to ensure that the recommendations of the submitted noise impact assessment are implemented and that the recommended glazing is certified as compliant.
- To eliminate any potential noise complaints arising from the operations of the adjoining Lone Pine Tavern, it further recommended that any bedroom window located within 20 m of the northern or eastern boundary of the tavern be provided with a minimum glazing thickness of 10.38 mm (i.e. double glazing).
- It is also recommended that a condition be imposed requiring that the existing 1.8 m high boundary fencing along the northern and eastern boundaries of the tavern be increased to 2.1 m to protect the privacy of the future residents, and that the new fencing be provided at full cost to the developer.
- However, it is considered that a 2.1 m acoustic fence would provide limited benefits, as the ground floor uses on site are non-residential in nature. Any acoustic fence would therefore need to be of a significant height to benefit the residents at the first, second and third floor levels. A fence exceeding 2.1 m, however, is not considered appropriate in a residential setting. Any solid fencing in this location would also be a target for graffiti and is not recommended.
- Prior to the issue of an Occupation Certificate, the applicant will also be required to submit a post commissioning noise report demonstrating that the acoustic treatments satisfy the noise level requirements of SEPP (Infrastructure) 2007.
- The suggested covenants are not supported as it is not feasible or reasonable to deny the residents their legitimate right to bring an action of complaint in the future. This request seeks to allow the tavern to operate with impunity and with no regard for the impact of its future operations. The tavern should be expected to operate in a reasonable and responsible manner, and not with disregard for the community within which it is located.

This issue is considered to be adequately addressed through the design of the development and the imposition of the recommended conditions of consent. The concerns raised are not considered sufficient to warrant refusal of the DA.

11. Section 79C consideration

- 11.1 Consideration of the matters prescribed under Section 79C of the Environmental Planning and Assessment Act 1979 are summarised at **Attachment 5**.
- 11.2 It is considered that the likely impacts of the development have been satisfactorily addressed and that the proposal is in the public interest. Further, the site is considered suitable for the proposed development.

12. Recommendation

- 12.1 The submission under State Environmental Planning Policy No.1 for modification of the development standards within State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 be supported and that the development standards be modified to 4 storeys and a ceiling height of 11.61 metres.
- 12.2 The DA be approved by the Sydney West Joint Regional Planning Panel as a deferred commencement consent subject to the conditions held at **Attachment 1**.
- 12.3 The submitter be advised of the panel's decision.



Rebecca Gordon
Town Planner



Judith Portelli
Manager Development Assessment



Glennys James
Director Design and Development